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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,499	11/21/2003	John W. Palazzo	30978.24673	3025

7590 08/25/2004

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EXAMINER

DEVORE, PETER T

ART UNIT PAPER NUMBER

3751

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,499

Applicant(s)

PALAZZO, JOHN W.

Examiner

Peter T deVore

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/29/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate in view of Onken and Pastore.

The Shumate reference discloses an oil containment device comprising a top, bottom, and body (see Figure 3), a control panel 13, a filter 34, and means for allowing manual pumping (cover which provides access, see Figure 5), and tubing (see Figure 1), but does not disclose an oil level measurement device, an oil shut-off device, or that the control panel is removable. However, attention is directed to the Onken reference, which discloses a similar oil containment device including an oil level measurement device 36 and an oil shut-off device 31 for preventing overflow of the tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ an oil level measurement device and an oil shut-off device on the Shumate oil containment device in view of Onken for preventing overflow of the tank. Furthermore, attention is directed to the Pastore reference, which discloses a similar device including a removable control panel (see abstract line 3) for improved interchangeability of control panels. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the control panel of the Shumate device to be removable in view of Pastore for improved interchangeability of control panels.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate in view of Onken and Pastore as applied to claim 2 above, and further in view of Dow.

The Shumate reference discloses an oil containment device as discussed supra, but remains silent as to the details of the shut-off device. However, attention is directed to the Dow reference, which discloses a similar device for handling cooking oil (see col. 9, line 37) including a solenoid valve 75 to shut off the flow. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a solenoid valve as the shut-off device in the modified Shumate device in view of Dow (if not already), wherein so doing would amount to mere selection of one functionally equivalent shut-off device for another within the same art and the selection of any of these shut-off devices would work equally well in the modified Shumate oil containment device.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate in view of Onken and Pastore as applied to claim 1 above, and further in view of Nitschke.

The Shumate reference discloses an oil containment device as discussed supra, but does not disclosed an outer skin of stainless steel spaced so as to provide insulation. However, attention is directed to the Nitschkew reference, which discloses a similar device for handling cooking oil including a spaced stainless steel shell 30 so as

to provide insulation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a spaced stainless steel shell on the modified Shumate device in view of Nitschke so as to provide insulation.

***Allowable Subject Matter***

Claim 10 is allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T deVore whose telephone number is (703) 306-5481. The examiner can normally be reached on Monday to Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3751

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Pd *pl*

A handwritten signature in black ink, appearing to read "Gregory L. Huson". The signature is fluid and cursive, with the first name "Gregory" being more legible than the last name "Huson".

GREGORY L. HUSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700